



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

BJG  
Docket No: 9834-02  
26 December 2002

From: Chairman, Board for Correction of Naval Records  
To: Secretary of the Navy

Subj: CAPT [REDACTED] USMC, [REDACTED]  
REVIEW OF NAVAL RECORD

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 dtd 18 Nov 02  
(2) HQMC MMOA-4 memo dtd 2 Dec 02  
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected to show the lineal position, date of rank, and effective date in the grade of captain he would have been assigned had he been selected for promotion to that grade by the Fiscal Year (FY) 2002 Captain Selection Board, vice the FY 2003 Captain Selection Board. By implication, he further requested removal of his failure of selection by the FY 2002 Captain Selection Board.
2. The Board, consisting of Messrs. Agresti, Milner and Zs Salman, reviewed Petitioner's allegations of error and injustice on 18 December 2002, and pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.
3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:
  - a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.
  - b. After Petitioner had failed of selection by the FY 2002 Captain Selection Board, the Headquarters Marine Corps Performance Evaluation Review Board directed removal of a fitness report. He was then selected, above the promotion zone, by the FY 2003 Captain Selection Board and promoted with a date of rank and effective date of 1 October 2002.
  - b. In correspondence attached as enclosure (2), the Headquarters Marine Corps office with cognizance over the subject matter of this case has commented to the effect that both

Petitioner's express and implied requests have merit and warrant favorable action. This advisory opinion specifically recommended adjusting his captain date of rank and effective date to 1 January 2002, the date he would have been assigned if he had been promoted pursuant to selection by the FY 2002 Captain Selection Board.

**CONCLUSION:**

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (2), the Board finds the existence of an injustice warranting the following corrective action.

**RECOMMENDATION:**

a. That Petitioner's naval record be corrected to show he did not fail of selection by the FY 2002 Captain Selection Board.

b. That his naval record be further corrected, where appropriate, to show his date of rank and effective date in the grade of captain as 1 January 2002, vice 1 October 2002; and that his lineal precedence be adjusted accordingly.

c. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

d. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN  
Recorder

  
JONATHAN S. RUSKIN  
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

  
W. DEAN PFEIFFER  
Executive Director



IN REPLY REFER TO:

1600  
MMAA-4  
2 Dec 02

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS

Subj: BCNR PETITION FOR CAPTAIN [REDACTED]  
[REDACTED] USMC

Ref: (a) BCNR Request for Advisory Opinion in the case of  
Captain [REDACTED] USMC  
of 20 Nov 02

1. Recommend approval of Captain [REDACTED] implied request for removal of his failure of selection and request for backdating.

2. Per the reference, we reviewed Captain [REDACTED] record and petition. Captain [REDACTED] failed selection on the FY02 USMC Captain Selection Board. He successfully petitioned the Performance Evaluation Review Board (PERB) to remove the Change of Reporting Senior report from 000504 to 000628. Captain [REDACTED] was subsequently selected for promotion from the Above-Zone on the FY03 USMC Captain Selection Board. Captain [REDACTED] requests backdating of his date of rank.

3. In our opinion, the favorable PERB action marginally increased the competitiveness of his record. With the petitioned report removed, Captain [REDACTED] record still contains considerable competitive jeopardy in the following areas:

a. **Adverse Report.** Captain [REDACTED] record contains another adverse report written at the same unit for the previous reporting period. This report contains comments which outline a serious lack of proficiency and performance. The removed report was similar in nature, but for a much shorter period of time.

b. **Reviewing Officer Distribution.** After the removal of the report, Captain [REDACTED] Reviewing Officer Distribution still clearly places him in the very bottom of his peer group.

c. **PFT Score.** Captain [REDACTED] Physical Fitness Test scores are all second or third class. These scores are significantly below the majority of his peers being selected for promotion.

4. In summary, the favorable PERB action did marginally improve the competitiveness of Captain [REDACTED] record. Since

the removed report may have resulted in Captain [redacted] failure of selection, and following the removal he was selected for promotion to Captain from the Above-zone, we recommend approval of his implied request for removal of his failure of selection and request for back-dating of his date of rank to 1 January 2002. This date was verified by [redacted] of MMPR.

5. POC is [redacted] [redacted] at [redacted] 21.

[redacted]

Lieutenant Colonel, USMC  
Head, Officer Counseling and  
Evaluation Section  
Personnel Management Division